

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IONIT TECHNOLOGIES, INC.

PLAINTIFF,

v.

VISION CONTROLS CORPORATION,

DEFENDANT.

)
)
) **Case No.** _____
)
)
)

Jury Trial Demanded

) **FILED: APRIL 30, 2008**

) **08CV2470 PH**

) **JUDGE CASTILLO**

) **MAGISTRATE JUDGE VALDEZ**

COMPLAINT

Plaintiff, ionit Technologies, Inc. (“ionit Technologies”), by its attorneys Banner & Witcoff, Ltd., for its Complaint against Defendant Vision Controls Corporation (“Vision Controls”) hereby states as follows:

THE PARTIES

1. Plaintiff ionit Technologies is a corporation organized and existing under the laws of the State of Illinois, and has its principal place of business at 601 Academy Drive, Northbrook, Illinois 60062.

2. Upon information and belief, Vision Controls is a corporation organized and existing under the laws of the State of Wisconsin, and has its principal place of business at 455 East Industrial Drive, Hartland, Wisconsin 53029.

JURISDICTION AND VENUE

3. This action is for: 1) copyright infringement arising under the copyright laws of the United States, 17 U.S.C. § 101 *et seq.*; 2) unfair competition arising under the laws of the

United States, 15 U.S.C. § 1051 *et seq.*; and 3) unfair competition and interference with prospective business advantage arising under the common law of the State of Illinois.

4. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331, 1338(a), 1338(b), and 1367(a).

5. This Court has personal jurisdiction over Vision Controls because it has done and is doing business in Illinois, and in this judicial district.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(a). Upon information and belief, Vision Controls is doing business in this district and wrongful acts committed by Vision Controls have occurred in, and are causing injury to, ionit Technologies in this district.

FACTUAL ALLEGATIONS

IONIT TECHNOLOGIES' BUSINESS AND INTELLECTUAL PROPERTY

7. ionit Technologies is a leader in the field of manufacturing, marketing, and selling advanced video recording systems. Such systems are used for a variety of purposes, including security, surveillance, safety, and control. Unlike traditional video recording systems that record onto tape or disc, ionit Technologies' video recording systems record onto a computer hard drive.

8. ionit Technologies' advanced video recording systems have several benefits over other systems, including their use of proprietary software to obtain a superior rate of data compression. Data compression is important in the field of advanced video recording systems for several reasons, including that uncompressed video files take up a large amount of space on a computer hard drive and that video files require a large amount of bandwidth to be transmitted remotely. ionit Technologies' innovative system greatly reduces the amount of computer hard

drive space that an end user needs in order to run an advanced video recording system and reduces the bandwidth that an end user needs to transmit video files remotely, thus improving the rate of transmission.

9. ionit Technologies sells its products and services to system integrators who then sell ionit Technologies' products to end users. Many ionit Technologies' products have been sold, including to companies such as United States Steel Corporation, also known as U.S. Steel.

10. ionit Technologies' advanced video recording systems use proprietary software ("the Software").

11. The Software resides in two locations: (1) on the hardware that ionit Technologies sells, and (2) on an end user's computer. The Software that is on ionit Technologies' hardware functions as an interface between the end user's computer systems and the cameras that capture the video, while the Software that is on an end user's computer is used by the end user to manage the captured video.

12. The Software was developed by Chateau Technical Corporation ("Chateau"), a Taiwanese company. Pursuant to an agreement between ionit Technologies and Chateau, ionit Technologies has exclusive rights in North America to all hardware and software developed by Chateau, including the right be the exclusive distributor of the Software in North America, including in the United States. In addition, ionit Technologies is the owner by assignment of all copyrights in the Software in North America, including in the United States.

13. ionit Technologies has obtained copyright registrations for the Software. Copies of these registrations are attached as Exhibit A.

14. ionit Technologies sells several different advanced video recording systems, including the **ionitPro+**TM, the **ionitSystems**TM, the **ionitRT**TM, the **i-Server**TM, and the **i-Cube**TM. These advanced video recording systems use the innovative Software.

VISION CONTROLS AND ITS UNLAWFUL CONDUCT

15. Vision Controls is a direct competitor of ionit Technologies. Vision Controls sells a line of video recording systems that it calls its CAM products, and these products directly compete with ionit Technologies' advanced video recording systems.

16. On information and belief, each CAM product sold by Vision Controls utilizes the Software developed by Chateau and thus the intellectual property owned by ionit Technologies.

17. Vision Controls sells at least seven such CAM products, namely CAM Embedded, CAM SS-R, CAM SS-R5, CAM SS-R16, CAM MP-R, CAM MP-R5, and CAM MP-R16. Below are screen shots taken from Vision Controls' web site which show these seven CAM products:

Digital Video Recorders (DVR)

Our CAM SS Series of DVR's offers the industry something truly unique; the ability to record continuously at high frame rates and high resolution without using large amounts of disk space and bandwidth. The product excels at multi-site multi location applications as well as applications where long term storage is required.

Our CAM MP DVR provides true 30 images per second capture on each channel of video utilizing advanced h.264 hardware compression. The CAM MP product is ideal for applications which demand real time video recording and long term storage.



CAM Embedded

8 Channel embedded DVR. 120 fps recording at 640x480 resolution utilizing advanced h.264 hardware compression. Storage options include 500 GB, 1000GB, 1500 GB. Interfaces with Vision Controls CAM SS remote software and fully compatible with CAM SS and CAM M Product Details...



CAM SS-R

Available in 4, 8, or 16 channel configurations. 160 fps recording at 640x480 resolution utilizing advanced h.263 hardware compression. Storage options include 500 GB, 1000GB, 2000GB. Utilizes Vision Controls CAM SS software and fully compatible with Visio Product Details...



CAM SS-R5

Same specifications as CAM SS R but includes 5 hot swappable hard drive bays and supports RAID 5 storage. Raid support is provided by 3Ware hardware RAID controller. RAID storage options are 500GB, 1000GB, 2000GB. Product may also be configured with no Product Details...



CAM SS-R16

Same specifications as CAM SS R but includes 16 hot swappable hard drive bays and 3 hot swappable power supplies. RAID support is provided by 3Ware hardware RAID controller. Standard RAID storage options are 500GB, 1000GB, 2000GB, 3000GB, 4000GB. Custom Product Details...



CAM MP-R

Available in 8 or 16 channel configurations. The key difference between the CAM MP product and CAM SS product is the video capture hardware. Video capture is 480 fps recording at 640x480 resolution utilizing advanced h.264 hardware compression and support Product Details...



CAM MP-R5

Same specifications as CAM MP R but includes 5 hot swappable hard drive bays and supports RAID 5 storage. Raid support is provided by 3Ware hardware RAID controller. RAID storage options are 500GB, 1000GB, 2000GB. Product may also be configured with no Product Details...



CAM MP-R16

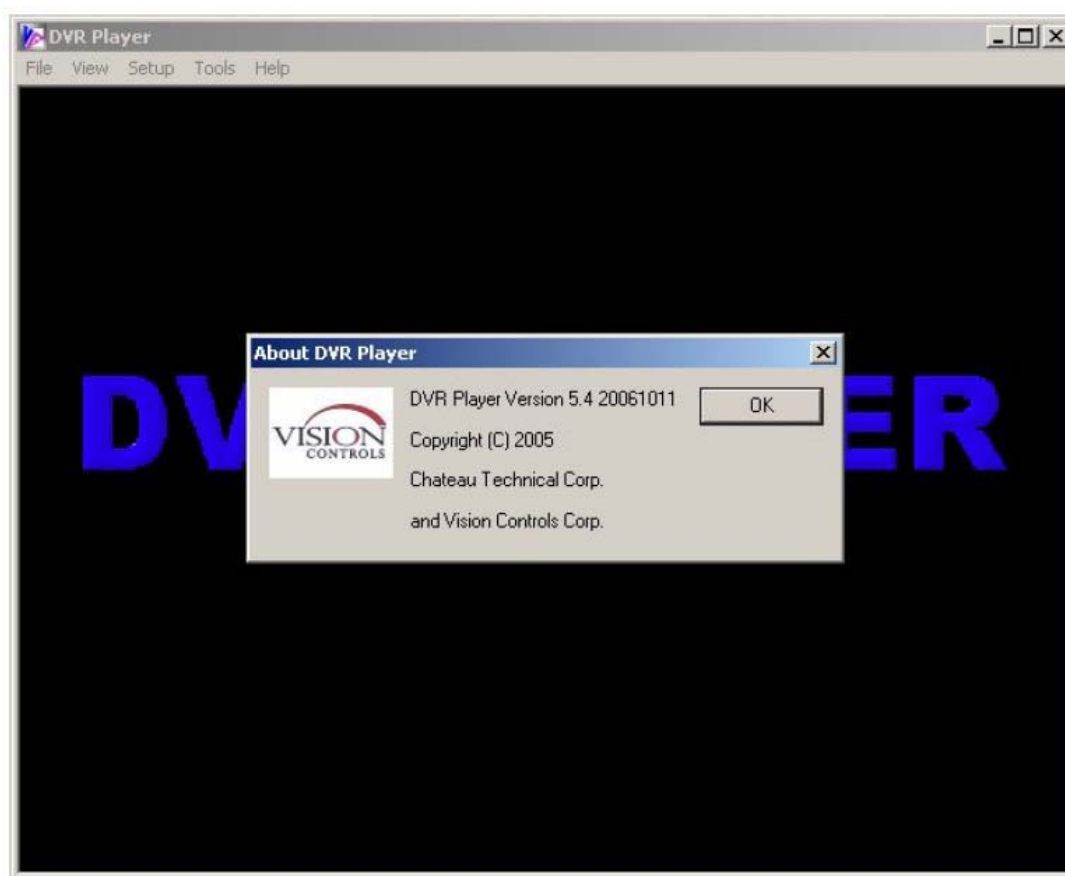
Same specifications as CAM MP R but includes 16 hot swappable hard drive bays and 3 hot swappable power supplies. RAID support is provided by 3Ware hardware RAID controller. Standard RAID storage options are 500GB, 1000GB, 2000GB, 3000GB, 4000GB. Custom Product Details...

18. Vision Controls does not have the authority to sell, distribute, or display the Software in the United States, nor does Vision Controls have the authority to import the Software into the United States.

19. On information and belief, Vision Controls' CAM products set forth above include and are sold with the Software.

20. For example, when a copy of the Software for Vision Controls' CAM SS is downloaded from Vision Controls' web site, it contains an End User License Agreement ("EULA") with Chateau (the developer of the Software), not with Vision Controls.

21. In addition, as seen below, the copyright notice for the Software for Vision Controls' CAM SS shows that the Software was developed by Chateau. Furthermore, on information and belief, Vision Controls is illegally "hacking" into the Software in order to alter it and falsely claim ownership in the copyright in the Software when, in fact, Vision Controls has no ownership in the Software.



22. Not surprisingly, as seen below, Vision Controls' User Interface for at least one of its CAM systems is almost identical to ionit Technologies' User Interface for its **ionitPro**TM system:



COUNT I – COPYRIGHT INFRINGEMENT UNDER FEDERAL LAW

23. ionit Technologies restates and incorporates by reference each and every allegation set forth in Paragraphs 1-22.

24. Vision Controls has infringed and continues to infringe ionit Technologies' copyright in the Software under, *inter alia*, 17 U.S.C. §§ 102, 106, 113, 501, and 602 by copying, reproducing, making, displaying, importing, selling, and/or distributing the Software in its CAM line of products without authorization from ionit Technologies.

25. Alternatively, if Vision Controls did not directly import the unauthorized copies of the Software into the United States, then Vision Controls is part of the chain of distribution of the unlawfully imported and distributed copies of Software, thus depriving ionit Technologies of its right to first sale in the United States.

26. On information and belief, Vision Controls' infringement has been and continues to be willful.

27. Furthermore, on information and belief, Vision Controls has committed "criminal infringement" by: (1) willfully infringing ionit Technologies' copyright in the Software for purposes of commercial advantage or private financial gain in violation of 17 U.S.C. § 506(a)(1); (2) placing in the Software – with fraudulent intent – a notice of copyright that Vision Controls knew to be false and that Vision Controls publicly distributed and/or imported for public distribution in violation of 17 U.S.C. § 506(c); and/or (3) altering the notice of copyright that appeared in the Software in violation of 17 U.S.C. § 506(d).

28. ionit Technologies has been irreparably damaged, and continues to be damaged irreparably, by Vision Controls' copyright infringement of the Software.

COUNT II – UNFAIR COMPETITION UNDER FEDERAL LAW

29. ionit Technologies restates and incorporates by reference each and every allegation set forth in Paragraphs 1-28.

30. In connection with at least its CAM line of products, Vision Controls has made false or misleading descriptions of fact and/or false or misleading representations of fact that are likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Vision Controls with ionit Technologies as to the origin, sponsorship, or approval of Vision Controls' CAM line of products. For example, notwithstanding that ionit Technologies is the exclusive distributor of and has exclusive rights to the Software and related hardware in North America, the Software for Vision Controls' CAM SS line of products contain a EULA with Chateau, not Vision Controls, and contain a copyright notice that shows that the Software was developed by Chateau, not Vision Controls.

31. On information and belief, Vision Controls' unfair competition has been and continues to be willful.

32. ionit Technologies has been irreparably damaged, and continues to be damaged irreparably, by Vision Controls' unfair competition.

**COUNT III – INTENTIONAL INTERFERENCE WITH PROSPECTIVE
BUSINESS ADVANTAGE UNDER ILLINOIS STATE LAW**

33. ionit Technologies restates and incorporates by reference each and every allegation set forth in Paragraphs 1-32.

34. ionit Technologies had a reasonable expectation of entering into valid business relationships with at least Videotec Corporation and Advantage Security Integration, as well as other Vision Controls customers.

35. On information and belief, Vision Controls knew of the expectancy.

36. On information and belief, despite such knowledge, Vision Controls intentionally and without justification or privilege interfered with the expectancy that caused the termination of the expectancy.

37. ionit Technologies has been irreparably damaged, and continues to be damaged irreparably, by Vision Controls' interference with its prospective business advantage.

COUNT IV – UNFAIR COMPETITION UNDER ILLINOIS STATE LAW

38. ionit Technologies restates and incorporates by reference each and every allegation set forth in Paragraphs 1-37

39. Vision Controls' acts discussed above, including selling its CAM products with the Software, illegally "hacking" into the Software in order to alter it and falsely claim ownership in the copyright in the Software when, in fact, Vision Controls has no ownership in the Software, and interfering with ionit Technologies' prospective business advantage constitute unfair competition under the law of the State of Illinois.

40. As one example, ionit Technologies had a reasonable expectation of entering into valid business relationships with at least Videotec Corporation and Advantage Security Integration, as well as other Vision Controls customers.

41. On information and belief, Vision Controls knew of the expectancy.

42. On information and belief, despite such knowledge, Vision Controls intentionally and without justification or privilege interfered with the expectancy that caused the termination of the expectancy.

43. ionit Technologies has been irreparably damaged, and continues to be damaged irreparably, by Vision Controls' unfair competition.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38 and the Seventh Amendment to the Constitution of the United States of America, ionit Technologies hereby demands a trial by jury on all issues so triable.

RELIEF SOUGHT

WHEREFORE, Plaintiff ionit Technologies prays for:

A. Judgment that Vision Controls: (i) willfully and criminally infringed ionit Technologies' copyright in the Software; (ii) willfully engaged in unfair competition under the law of the United States; (iii) interfered with ionit Technologies' prospective business advantage under the law of the State of Illinois; and (iv) engaged in unfair competition under the law of the State of Illinois.

B. A preliminary and permanent injunction against further infringement of ionit Technologies' copyrights in the Software by Vision Controls, its agents, servants, employees, officers, directors, affiliates, attorneys, assigns, and all others in active concert or participation with them or otherwise controlled by them.

C. An order requiring Vision Controls, its agents, servants, employees, officers, directors, affiliates, attorneys, assigns, and all others in active concert or participation with them or otherwise controlled by them, as well as any others that may become aware of the enjoinder ordered by the Court, to forfeit for destruction all devices, products, components, and any materials of any type containing the Software and any works derived from or copied from the Software as well as all implements, devices, or equipment used in the manufacture of the infringing copies of the Software.

D. A preliminary and permanent injunction prohibiting Vision Controls from further contact or communication with ionit Technologies' customers regarding the Software in order to prevent any further interference with ionit Technologies' prospective business advantage.

E. An award of Vision Controls' profits and damages sustained by ionit Technologies as a result of Vision Controls' copyright infringement, which damages include, but are not limited to, Vision Controls' profits.

F. An award of Vision Controls' profits and damages sustained by ionit Technologies as result of Vision Controls' unfair competition pursuant to 15 U.S.C. § 1117, which shall be trebled pursuant to the same.

G. An award of damages sustained by ionit Technologies as a result of Vision Controls' interference with ionit Technologies' prospective business advantage.

H. An award of (i) the costs of this action, and (ii) ionit Technologies' reasonable attorneys' fees, pursuant to 15 U.S.C. § 1117(a).

I. The recovery of all pre-judgment and post-judgment interest on each and every award.

J. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: April 30, 2008

By: /s/ Timothy C. Meece
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**Attorneys for Plaintiff
ionit Technologies, Inc.**



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

1 10000 0000
* *

Registration Number:

TX 6-835-752

Effective date of
registration:

April 10, 2008

Title

Title of Work: Chateau RT4

Completion/Publication

Year of Completion: 2006

Date of 1st Publication: December 1, 2006

Nation of 1st Publication: United States

Author

■ Author: Chateau Technical Corporation

Author Created: Revised and additional text of computer program

Work made for hire: Yes

Anonymous: No

Pseudonymous: No

Copyright claimant

Copyright Claimant: Ionit Technologies, Inc.

601 Academy Drive, Northbrook, IL 60062

Transfer Statement: by written agreement

Limitation of copyright claim

Material excluded from this claim: Previous version

Previously registered: No

New material included in claim: Revised and additional text of computer program

Certification

Name: Binal J. Patel

Date: April 10, 2008

Correspondence: Yes

IPN#:



★ ★

Registration #: TX0006835752

Service Request #: 1-55092158

Banner & Witcoff, Ltd.
Binal J. Patel
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Chicago, IL 60606

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

TX 6-835-750

Effective date of
registration:

April 10, 2008

Title

Title of Work: Chateau XP

Completion/Publication

Year of Completion: 2006

Date of 1st Publication: December 1, 2006

Nation of 1st Publication: United States

Author

Author: Chateau Technical Corporation

Author Created: Revised and additional text of computer program

Work made for hire: Yes

Anonymous: No

Pseudonymous: No

Copyright claimant

Copyright Claimant: Ionit Technologies Inc.

601 Academy Drive, Northbrook, IL 60062

Transfer Statement: by written agreement

Limitation of copyright claim

Material excluded from this claim: Previous version

Previously registered: No

New material included in claim: Revised and additional text of computer program

Certification

Name: Binal J. Patel

Date: April 10, 2008

Correspondence: Yes

IPN#:



Registration #: TX0006835750

Service Request #: 1-55092125

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